

**ASSEMBLY BILL**

**No. 1304**

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**Introduced by Committee on Agriculture (Matthews (Chair),  
Maldonado (Vice Chair), Berg, Cogdill, Maddox, Maze,  
Oropeza, Parra, Reyes, Salinas, Vargas, and Wiggins)**

February 21, 2003

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An act to amend Sections 54452 and 54453 of the Food and Agricultural Code, relating to cooperative associations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1304, as introduced, Committee on Agriculture. Cooperative bargaining associations: conciliation.

Existing law requires that the Department of Food and Agriculture order conciliation between any cooperative bargaining association and specified processors if it determines, after receiving a request for conciliation, that the conciliation will materially assist the parties in negotiating an agreement. Existing law requires the department to follow specified procedures upon receipt of a request for conciliation. Among those procedures, the department is required to notify the American Arbitration Association that conciliation may be ordered.

This bill would require that the department notify the conciliator agreed to by all the parties to the proceeding or, if the parties have not agreed upon a conciliator, the American Arbitration Association that conciliation may be ordered.

Under existing law, if conciliation is ordered, the department is required to, on the day it determines that conciliation shall be conducted, notify both parties that the conciliation will take place and direct the American Arbitration Association to commence the

conciliation process in accordance with its Commercial Mediation Rules for use in California, as specified.

This bill would require that the department notify the conciliator agreed to by all parties to the proceeding in accordance with their applicable mediation rules or, if the parties have not agreed upon a conciliator, the American Arbitration Association to commence the conciliation process. This bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 54452 of the Food and Agricultural  
2 Code is amended to read:

3 54452. The following procedure shall be used upon receipt by  
4 the department of a request for conciliation:

5 (a) The request from one of the parties to the negotiation,  
6 referred to as the requesting party, shall be presented on a form  
7 prescribed by the department.

8 (b) The requesting party shall submit, along with the request,  
9 the last offer made to the other party, referred to as the responding  
10 party, reasons for rejection of the responding party's last offer, and  
11 an indication as to what the requesting party believes would be  
12 required to reach an agreement. A copy of the request, as well as  
13 any information required pursuant to this subdivision, shall be  
14 express mailed to the responding party on the same day that the  
15 request is submitted to the department.

16 (c) On the next business day after receiving the request for  
17 conciliation, the department shall notify the responding party that  
18 a request for conciliation has been received. The responding party  
19 shall be required to respond to the department within three  
20 business days after receipt of notification that conciliation has  
21 been requested. The response from the responding party shall  
22 include the last offer made to the requesting party, reasons for  
23 rejection of the requesting party's last offer, and an indication as  
24 to what the responding party believes would be required to reach  
25 an agreement. The responding party's response shall be made on  
26 a form prescribed by the department. A copy of the response, as  
27 well as any information required pursuant to this subdivision, shall



1 be express mailed to the requesting party on the same day that the  
2 response is submitted to the department.

3 (d) On the same day that the responding party is notified by the  
4 department that a request for conciliation has been made, the  
5 department shall notify *the conciliator agreed to by all the parties*  
6 *to the proceeding or, if the parties have not agreed upon a*  
7 *conciliator*; the conciliation service of the American Arbitration  
8 Association that conciliation may be ordered.

9 (e) On the date that the department notifies the responding  
10 party that a conciliation has been requested, the department may  
11 also request additional information from either party.

12 (f) Both parties have three business days after the date of the  
13 request made pursuant to subdivision (e) in which to respond to the  
14 request for additional information.

15 (g) Within three business days after final receipt from the  
16 parties of all information requested by the department, the  
17 department shall determine whether conciliation shall be  
18 conducted.

19 SEC. 2. Section 54453 of the Food and Agricultural Code is  
20 amended to read:

21 54453. (a) If conciliation is ordered, the department shall, on  
22 the day the department determines that conciliation shall be  
23 conducted, notify both parties that the conciliation will take place  
24 and direct *the conciliator agreed to by all parties to the proceeding*  
25 *in accordance with their applicable mediation rules or, if the*  
26 *parties have not agreed upon a conciliator*; the American  
27 Arbitration Association to commence the conciliation process in  
28 accordance with its Commercial Mediation Rules for use in  
29 California, ~~as amended and in effect December 1, 1988~~. However,  
30 this article prevails if there is any conflict between those rules and  
31 this article.

32 (b) Confidential information disclosed to a conciliator by the  
33 parties or by any other person in the course of the conciliation shall  
34 not be divulged by the conciliator. All statements, oral or written,  
35 records, reports, or other documents received or made by a  
36 conciliator while serving in that capacity, or by any other person,  
37 shall be confidential. The conciliator shall not be compelled to  
38 divulge the information or to testify in regard to the conciliation  
39 in any proceeding or judicial forum. The parties shall maintain the  
40 confidentiality of the conciliation, and shall not rely on, or

1 introduce as evidence in any proceeding or forum, any of the  
2 following:

3 (1) Views expressed or suggestions made by any party in the  
4 course of conciliation proceedings with respect to a possible  
5 settlement of the dispute.

6 (2) Admissions by any party in the course of conciliation  
7 proceedings.

8 (3) Proposals made or views expressed by the conciliator.

9 (4) The fact that any party in the course of conciliation  
10 proceedings had or had not indicated willingness to accept a  
11 proposal for settlement made by the conciliator or other party.

